

Notice of Allowability

Application No.

09/820,416

Applicant(s)

BAR-OR ET AL.

Examiner

Khatol S Shahnian-Shah

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communication on 10/13/04.
2. ☒ The allowed claim(s) is/are 48-53, 56-58, 60, 61, 63, 64 and 66-68 renumbered claims 1-16 respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 8/30/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 10/13/04.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Art Unit: 1645

Attachment to Notice of Allowance

1. Claims 48-68 are pending.
2. Claims 48-53, 56-58, 60, 61, 63, 64 and 66-68 are under consideration. Claims 54-55, 59, 62 and 65 are withdrawn from consideration as being drawn to non-elected inventions.

Information Disclosure Statement

3. Applicants' information disclosure statement received, 8/30/2004 is acknowledged. The references have been considered by the examiner, see attached 1449 form.

Rejections Withdrawn

4. Rejection of claims 48, 49, 50-53, 56-58, 60-61, 63-64 and 66-68 under 35 USC 103 (a) made in paragraph 9 of the office action mailed July 02, 2002, paper # 13 is withdrawn in view of applicants' interview of 10/13/04. See attached interview summary.

Examiner's Amendment

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Anjela Sebor (reg # 42460) on 10/18/2004. Claims 54-55, 59, 62 and 65 are canceled (see interview summary).

Please cancel claims 54-55, 59, 62 and 65.

Allowable Subject Matter

6. Claims 48-53, 56-58, 60-61, 63-64 and 66- 68 are allowed. Claims are renumbered 1-16 respectively.

The following is an examiner's statement of reasons for allowance:

Claims are drawn to a method of monitoring or assessing treatment of a disease or condition with a compound that produces or reduces free radicals comprising:

- a) obtaining a first biological sample from a patient suffering form a disease containing modified albumin;
- b) treating the patient with a compound;
- c) obtaining additional biological samples after treatment; and determining if there is a change in the quantity of modified albumin in the sample by:
 - d) contacting each of the biological sample with excess quantity of a metal ion salt;
 - e) determining the amount of bound metal ion to the albumin;
 - f) determining if there is a change in the amount of bound metal ion.

The prior art fails to teach the particular method steps recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1645

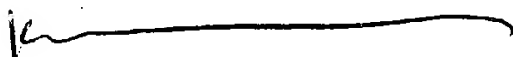
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol S Shahnian-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on 7:30am-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F Smith can be reached on (571)-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

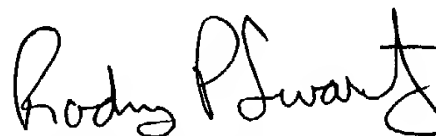
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Khatol Shahnian-Shah, BS, Pharm, MS

Biotechnology Patent Examiner

Art Unit 1645
October 18, 2004


RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER